

ORIGINAL

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FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

FEB 28 2006

at \_\_\_\_\_ o'clock and \_\_\_\_\_ min. \_\_\_\_\_ M  
SUE BEITIA, CLERK

Attorneys for Defendants  
WILLIAM P. BADUA,  
JEFFREY OMAI and  
SPENCER ANDERSON

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

OFELIA COLOYAN,

Plaintiff,

vs.

WILLIAM P. BADUA;  
JEFFREY OMAI;  
SPENCER ANDERSON;  
NEIL PANG;  
and DOES 5-10,

Defendants.

) CIVIL NO. CV03-476 KSC  
)  
) DEFENDANTS WILLIAM P.  
) BADUA, JEFFREY OMAI AND  
) SPENCER ANDERSON'S  
) OBJECTIONS TO PLAINTIFF'S  
) PROPOSED TRIAL EXHIBITS;  
) CERTIFICATE OF SERVICE  
)  
)  
) TRIAL DATE: WEEK OF  
MARCH 14, 2006

DEFENDANTS WILLIAM P. BADUA, JEFFREY OMAI  
AND SPENCER ANDERSON'S OBJECTIONS TO  
PLAINTIFF'S PROPOSED TRIAL EXHIBITS

Defendants, WILLIAM P. BADUA, JEFFREY OMAI AND SPENCER ANDERSON (collectively hereinafter "Defendants"), by and through their attorneys, Carrie K.S. Okinaga, Corporation Counsel, and Kendra K. Kawai and Marie Manuele Gavigan, Deputies Corporation Counsel, and pursuant to this Court's Third Amended Rule 16 Scheduling Order, hereby submit their objections to the admissibility of Plaintiff's proposed trial exhibits.

1. Plaintiff's Exhibits – Photographs of Plaintiff's Home and Area

Objection: Relevance. Cumulative. Hearsay. Lack of foundation. Defendants also object on the grounds that it may be a waste of time, under Rule 403 of the Federal Rules of Evidence ("FRE"), to go through possibly all of the 37 photographs. Counsel involved in this matter may come to an agreement regarding which photos should be admitted at trial.

2. Plaintiff's Exhibits – Deposition of Lee D. Donohue from Civil No. 02-0271, Long v. City and County of Honolulu, et al.

Objection: Relevance. Lack of foundation. Hearsay. See also, Defendants William P. Badua, Spencer Anderson and Jeffrey Omai's Motion in Limine No. 2 Re: Precluding Testimony of Lee Donohue and/or Testimony Regarding a Code of Silence, filed on February 21, 2006.

3. Plaintiff's Exhibit – Declaration of Ofelia Coloyan Attached to Plaintiff's Opposition to Defendant Neil Pang's Motion for Summary Judgment

Objection: Relevance. Lack of foundation. Hearsay. Defendants assert that this document will be cumulative based on the fact that Plaintiff will testify at trial.

4. Plaintiff's Exhibits – Any and All Documents Re: Last Known Address for Allan Coloyan.

Objection: Relevance. Lack of foundation. Defendants object under Rule 403 of the FRE because the issue regarding the last known address will mislead and confuse the jury.

5. Plaintiff's Exhibit – Map of Ewa Beach

Objection: Relevance. Lack of foundation. Hearsay. Defendants object because it may be a waste of time under Rule 403 of the FRE to establish where Plaintiff lives in Ewa Beach. Defendants' counsel was shown a copy of the map by Plaintiff's counsel, but did not receive a copy of the map.

6. Plaintiff's Exhibits – Exhibits attached to Deposition of Spencer Anderson

Objection: Lack of foundation. Hearsay. Relevance.

7. Plaintiff's Exhibit – Correction Sheet and Signature Page for Spencer Anderson

Objection: Lack of foundation. Hearsay. Relevance.

8. Plaintiff's Exhibit – Correction Sheet and Signature Page for William P. Badua

Objection: Lack of foundation. Hearsay. Relevance.

9. Plaintiff's Exhibit – Correction Sheet and Signature Page for Neil Pang

Objection: Lack of foundation. Hearsay. Relevance.

10. Plaintiff's Exhibit – Exhibit attached to Deposition of Darren Nihei

Objection: Lack of foundation. Hearsay. Relevance.

11. Plaintiff's Exhibit – Correction Sheet and Signature Page for Darren Nihei

Objection: Lack of foundation. Hearsay. Relevance.

12. Plaintiff's Exhibit – Correction Sheet and Signature Page for Donald Stafford

Objection: Lack of foundation. Hearsay. Relevance.

13. Plaintiff's Exhibit – Correction Sheet and Signature Page for Detrich Kamakani

Objection: Lack of foundation. Hearsay. Relevance.

14. Plaintiff's Exhibits – Any and all Oral Deposition Transcripts Listed in Plaintiff's Pretrial Statement

Objection: Lack of foundation. Hearsay. Relevance. Defendants assert that any and all deposition transcripts should not be attached as exhibits, as they are hearsay and should be used for impeachment purposes only.

15. Plaintiff's Exhibit – Records from Wackenhut Corporation

Objection: Relevance. Lack of foundation. Hearsay.

16. Plaintiff's Exhibit – Records from Castle Medical Center

Objection: Relevance. Lack of foundation. Hearsay.

17. Plaintiff's Exhibit – Work Release Note from Steven Lum, M.D.

Objection: Lack of foundation. Hearsay.

18. Plaintiff's Exhibit – Medical Records from Steven Lum, M.D. for Plaintiff

Objection: Lack of foundation. Hearsay.

19. Plaintiff's Exhibit – Supplemental Medical Records from Steven Lum, M.D. for Plaintiff

Objection: Lack of foundation. Hearsay.

20. Plaintiff's Exhibit – Curriculum Vitae of Steven Lum, M.D.

Objection: Relevance. Lack of foundation. Hearsay.

21. Plaintiff's Exhibit – Curriculum Vitae of Robert Marvit, M.D.

Objection: Relevance. Lack of foundation. Hearsay.

22. Plaintiff's Exhibit – Report by Robert Marvit, M.D. dated October 11, 2005

Objection: Hearsay. Lack of foundation.

23. Plaintiff's Exhibits – Any and All Court Pleadings Listed in Plaintiff's Pretrial Statement

Objection: Hearsay. Lack of foundation. Relevance. Cumulative.

24. Plaintiff's Exhibits – Any and All Discovery Pleadings Listed in Plaintiff's Pretrial Statement

Objection: Hearsay. Lack of foundation. Relevance. Cumulative.

25. Plaintiff's Exhibit – Any Correspondence between Counsel Listed in Plaintiff's Pretrial Statement

Objection: Relevance. Lack of foundation. Hearsay.

26. Plaintiff's Exhibit – Proof of Service on Custodian of Records, Honolulu Police Department, dated October 13, 2003

Objection: Relevance. Lack of foundation. Hearsay. Defendants have not received a copy of said document.

27. Plaintiff's Exhibit – Subpoena in a Civil Case, dated October 13, 2003

Objection: Relevance. Lack of foundation. Hearsay. Defendants have not received a copy of said document.

28. Plaintiff's Exhibit – Investigative Report, dated October 20, 2005

Objection: Relevance. Lack of foundation. Hearsay. Defendants have not received a copy of said document.

29. Plaintiff's Exhibit – Fax Transmittal to Process Server dated October 22, 2005

Objection: Relevance. Lack of foundation. Hearsay. Defendants have not received a copy of said document.

30. Plaintiff's Exhibit – Return of Service filed August 10, 2005 by Jacinto Carrasco III

Objection: Relevance. Lack of foundation. Hearsay. Defendants have not received a copy of said document.

31. Plaintiff's Exhibit – Return of Service for Officer Badua executed February 12, 2004

Objection: Relevance. Lack of foundation. Hearsay. Defendants have not received a copy of said document.

Defendants reserve the right to make further objections as to the admissibility of Plaintiff's exhibits, once all exhibits are marked for trial and in the event that additional exhibits may be presented before trial.

If the Court wishes to review Plaintiff's Exhibits prior to March 14, 2006, Defendants can provide the Court with copies of Plaintiff's exhibits to which they are objecting.

DATED: Honolulu, Hawaii, February 28, 2006.

CARRIE K.S. OKINAGA  
Corporation Counsel

By 

KENDRA K. KAWAI  
MARIE MANUELE GAVIGAN  
Deputies Corporation Counsel

Attorneys for Defendants  
WILLIAM P. BADUA  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAI'I

OFELIA COLOYAN,	)	CIVIL NO. 03-476 KSC
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Plaintiff,	)	CERTIFICATE OF SERVICE
	)	
vs.	)	
	)	
WILLIAM P. BADUA;	)	
JEFFREY OMAI;	)	
SPENCER ANDERSON;	)	
NEIL PANG;	)	
and DOES 5-10,	)	
	)	
Defendants.	)	
	)	
	)	
	)	

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the within was duly served by hand  
delivery to the following individuals at their addresses shown below on  
February 28, 2006:

JACK SCHWEIGERT, ESQ.  
550 Halekauwila Street, Room 309  
Honolulu, Hawai'i 96813  
and

ARTHUR E. ROSS, ESQ.  
126 Queen Street, Suite 210  
Honolulu, Hawaii 96813  
and




RORY SOARES TOOMEY  
1088 Bishop Street, Suite 1004  
Honolulu, Hawaii 96813

Attorneys for Plaintiff  
OFELIA COLOYAN

DATED: Honolulu, Hawai'i, February 28, 2006.

CARRIE K.S. OKINAGA  
Corporation Counsel

By:   
KENDRA K. KAWAI  
MARIE MANUELE GAVIGAN  
Deputies Corporation Counsel

Attorney for Defendants  
WILLIAM P. BADUA  
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